

Testimony of Mark P. Smith,
Director Eastern U.S. Freshwater Program,
The Nature Conservancy
Draft regulations RCSA sections 26-141b-1 to 26-141b-9
Stream Flow Standards and Regulations
January 21, 2010

My name is Mark P. Smith and I am pleased to provide testimony on behalf of The Nature Conservancy. The Nature Conservancy is an international, nonprofit organization whose mission is to preserve the plants, animals, and natural communities that represent the diversity of life on Earth. Our work is supported by 24,000 members in Connecticut.

Connecticut has rich and diverse freshwater systems. Over thousands of years, the plants and animals of these river systems have evolved to depend on natural water flows to survive. For example, fish like shad and herring migrate and spawn during times of high flows and important recreational species like brook trout require clean, cold and flowing water in which to live.

The water provided by these natural resources is also critical to people and communities – providing water for our most basic needs, sustaining our economy, providing recreation opportunities, and improving our quality of life. These rivers are also an economic engine in their own right -- each year, over \$230 million is spent on freshwater fishing and related activities in Connecticut.¹

As a member of the DEP Commissioner's Advisory Committee I appreciate the time and work that has gone into this effort to date. I am confident that with the comments and counsel of those in this room and beyond, the Department will be able to develop final regulations that benefit the environment and ensure clean, safe and affordable water to the citizens of Connecticut.

At the most basic level, these draft regulations seek to establish a clear set of environmental goals for the rivers and streams of Connecticut. Building a sustainable water future is very much like planning a trip. But without a clear destination we will never know if we are heading in the right direction. These environmental goals, along with our human water needs, provide us with our destination and make sure we are heading in the right direction.

These regulations include numerous common-sense approaches to protecting and managing our water resources, including:

- They recognize that all rivers are not the same and therefore different rivers will have different classes of environmental goals.
- They put humans first by ensuring that the water needed for fire and other emergencies is not affected; that dams used for flood control are exempt; and that human water needs come first during times of drought.

¹ 2006 National Survey of Fishing, Hunting and Wildlife-Associated Recreation, U.S. Fish and Wildlife Service as reported by the American Sportfishing Association, January 2008.

- They include rules based on a combination of biologically-based seasonal periods and local hydrology that result in requirements tailored to local conditions.
- They improve the transparency and predictability of the regulatory system, making it easier for communities to site and build new water sources.
- They include an ongoing public participation process that ensures the public has a meaningful role in determining the future of Connecticut's rivers and streams.
- They provide flexibility on how the requirements can be met – including the choice of presumptive standards, site specific watershed plans and a variance procedure to accommodate unique situations.
- They provide more than ample time – up to 16 years – for implementation, allowing communities and water companies to determine the most cost-effective means to meet the requirements.

But we are also glad that these draft regulations are a work on progress. In places they are too weak and in other places the compliance requirements should be eased. For example:

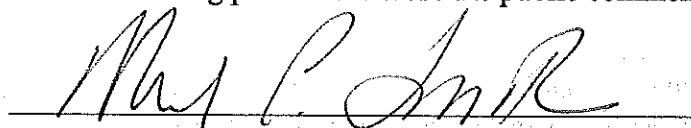
1. The current narrative standard for class 4 rivers offers no environmental protection and must be changed. We cannot afford to leave any of our rivers behind.
2. The presence of threatened, endangered or otherwise listed species should be explicitly considered during the river classification process.

To ease compliance, the Department should consider:

1. Including an option for filing "Site-Specific Flow Management Plans" for individual water systems rather than always requiring a Watershed Compact as an alternative to presumptive standards.
2. Providing larger withdrawals from groundwater and direct withdrawals as a matter of rule for class 2 and 3 rivers, with appropriate reductions during times of low water.
3. Including simplified rules for very small reservoirs and reservoirs that are used only occasionally as long as they provide a specified minimum release.

Thank you for the chance to testify today. These regulations have the opportunity to provide a solid foundation on which to build a sustainable water future for Connecticut. We encourage the Department to make the needed revisions and issue a final set of rules in the near future to move us toward our goal of providing water for people *and* water for nature.

We will be providing additional detailed comments in writing prior to the close the public comment period.



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